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LB 76

PRESIDENT MAURSTAD: One minute.

SENATOR HUDKINS: ...the same or similar circumstances should be dealt with in the same fashion. I would hesitate to say that no circumstances are ever the same and there are few that are similar. We heard from, I think it was, Senator Hilgert that the same crime committed in different parts of the state would be treated differently. Well, I can understand that because the people dealing with those issues are also coming from different backgrounds. They're human beings. Prosecutors are human beings, even though some of you might not think so. The defense attorneys are human, the juries certainly are human, and the judges are human. Maybe we should send the judges to judge school so that if this happens, this is the penalty. Well, you know, we tried that, it's called mandatory minimum sentencing. But then that takes away the discretion that the judges and all of those involved have.

PRESIDENT MAURSTAD: Time. Thank you, Senator. Senator Baker.

SENATOR BAKER: Mr. Chair, I yield my time to Senator Hudkins.

PRESIDENT MAURSTAD: Senator Hudkins.

SENATOR HUDKINS: Thank you, Mr. Speaker, and thank you, Senator Baker. We were told yesterday, and I believe today, that we're not being fair and consistent. Well, who is "we"? Is that us as a body? Is it the judge? Is it the jury? I don't know who "we" is. Senator Brashear gave us charts yesterday on the percentage of the people that are convicted of a...of first degree murder, for example, crime, how many of them get the death penalty and how many of them get life in prison. And, yes, there are very few that get the death penalty, but there's probably a reason for that. It's probably based upon the seriousness or the circumstances of that particular crime. A friend of ours is a guard at the penitentiary. He says that he is very much in favor of the death penalty. And why? He says if there is a person in the penitentiary that he is in charge of who is already serving a life sentence, what is the incentive for that particular prisoner not to kill him? At least with a death penalty there is some incentive to keep that particular guard alive. Victims are not just the person who dies. I'm a